

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of Health Data and Analytics**  
**Division of Health Benefit Exchange**  
**(New Administrative Regulation)**

**900 KAR 13:010. Guaranteed Acceptance Program (GAP) reporting requirements.**

RELATES TO: KRS 304.17B-001, 304.17B-021(2), 304.17B-023

STATUTORY AUTHORITY: KRS 304.17B-031(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.17B-031(1) requires the Office of Health Data and Analytics to promulgate administrative regulations necessary to carry out the provisions of KRS 304.17B-001 to 304.17B-031. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program for a participating insurer and KRS 304.17B-021(2) establishes requirements for a supporting insurer to provide information to the office. This administrative regulation prescribes the form and the time schedule for submitting reports to the office.

**Section 1. Definitions.**

- (1) "Earned premium" is defined by KRS 304.17B-001(8).
- (2) "Guaranteed acceptance program" or "GAP" is defined by KRS 304.17B-001(11).
- (3) "Guaranteed acceptance program participating insurer" is defined by KRS 304.17B-001(12).
- (4) "Health benefit plan" is defined by KRS 304.17A-005(22).
- (5) "Insurer" is defined by KRS 304.17A-005(29).
- (6) "Office" is defined by KRS 304.17B-001(24).
- (7) "Stop-loss carrier" is defined by KRS 304.17B-001(27).
- (8) "Supporting insurer" is defined by KRS 304.17B-001(28).

**Section 2. GAP Participating Insurer's Monthly Report.** A GAP participating insurer shall submit a GAPERF-M-1 to the office within thirty (30) calendar days after the end of each calendar month.

**Section 3. Supporting Insurer's and Stop-Loss Carrier's Quarterly Report.** A supporting insurer and a stop-loss carrier shall submit a GAPQR-2 to the office within thirty (30) calendar days after the end of each calendar quarter.

**Section 4. GAP Participating Insurer's Annual Report.** A GAP participating insurer shall submit a GAPERF-A-1 to the office within forty-five (45) calendar days after the end of each calendar year.

**Section 5. Certification.** A GAP participating insurer shall complete and attach a GAPC-1 to the following reports at the time of the report's submission to the office:

- (1) GAPERF-M-1; and
- (2) GAPERF-A-1.

**Section 6. Annual Earned Premium Verification.**

(1) After the end of a calendar year, the office may request in writing that a supporting insurer verify the total earned premiums reported by the insurer for that calendar year.

(2) If an earned premium verification is requested pursuant to subsection (1) of this section, a supporting insurer shall submit the following documentation:

- (a) 1. Confirmation that the reported health benefit plan or stop-loss earned premium amounts are correct; or
- 2. Corrections of reported health benefit plan or stop-loss earned premium amounts; and
- (b) A GAPAFF-1.

#### Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Guaranteed Acceptance Program and Kentucky Access Affidavit", GAPAFF-1, 11/2021;
- (b) "Guaranteed Acceptance Program (GAP) and Kentucky Access Data Certification Form", GAPC-1, 11/2021;
- (c) "Annual Report for GAP Participating Insurers", GAPERF-A-1, 11/2021;
- (d) "Monthly Report for GAP Participating Insurers", GAPERF-M-1, 11/2021; and
- (e) "Supporting Insurer's and Stop-Loss Carrier's Quarterly Report", GAPQR-2, 11/2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Office of Health Data and Analytics, Division of Health Benefit Exchange, 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m., or may be accessed at [khbe.ky.gov](http://khbe.ky.gov).

ANDREW C. BLEDSOE, Deputy Executive Director

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: December 22, 2021

FILED WITH LRC: January 12, 2022

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022 at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until March 31, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

**CONTACT PERSON:** Krista Quarles, Policy Advisor, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Melea Rivera or Krista Quarles

- (1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the format and time schedule for submitting Guaranteed Acceptance Program (GAP) reports to the office for each calendar year in accordance with KRS 304.17B-023 and KRS 304.17B-021.

(b) The necessity of this administrative regulation: KRS 304.17B-023 requires GAP participating insurers to report to the office and KRS 304.17B-021 requires supporting insurers to provide information to the office. This administrative regulation provides the format and time for submitting these reports.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.17B-031(1) requires the office to promulgate administrative regulations necessary to carry out the provisions of KRS 304.17B-001 to 304.17B-031. This administrative regulation provides the format and schedule for GAP participating insurers and supporting insurers to report to the office.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the format and schedule for GAP participating insurers and supporting insurers to report to the office.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will provide updated editions of the required forms and removes or corrects language in the administrative regulation that no longer conforms to KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: Kentucky Access and GAP became the responsibility of the Office of Health Data and Analytics by a statutory change in 2019. This administrative regulation and the forms incorporated by reference needed revision to include the correct agency and address, to make other changes to reflect the format of the reports, and to comply with the drafting requirements of KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.17B-031(1) requires the office to promulgate administrative regulations necessary to carry out the provisions of KRS 304.17B-001 to 304.17B-031. This amendment does not alter the existing process. The amendment updates names, addresses, and edition dates of existing forms and makes revisions required by KRS Chapter 13A.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will bring this administrative regulation into compliance with KRS Chapter 13A and the updated language in KRS 304.17B.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately sixty (60) insurance companies will continue to use the modified forms to report information.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The insurance companies will need to use the updated forms when submitting their reports to the office.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Since the substantive form content has not changed with this amendment, no additional cost to the insurance companies is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The insurance companies will be in compliance with the statutes and will have updated contact information for the office.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Initial costs are estimated to be under \$1,000 and include existing staff time and the establishment of a Kentucky Access email box to receive these reports, updating these forms, and posting the forms to a page on the KHBE.ky.gov Web site.

(b) On a continuing basis: The Division of Health Benefit Exchange will need to maintain and check the e-mail box for these reports. Staff will compile the reports for the annual assessment information and staff will audit some reports. Existing state staff is already handling these tasks, which take approximately fifteen (15) hours or less per month. Total estimated cost should be less than \$500 per month.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KHBE restricted funds will continue to be used.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees is expected to implement this amendment to an existing administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees. Insurance companies are required to pay annual assessments pursuant to KRS 304.17B-021.

(9) TIERING: Is tiering applied? Yes, tiering is applied because different reports are required depending on the type of insurance company and whether the company has GAP losses to report.

#### FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services, Office of Health Data and Analytics (OHDA) is required to implement this administrative regulation. Since the affected entities are insurance companies regulated by the Department of Insurance (DOI), which is the state agency that previously handled the collection of these reports, DOI may have a minor impact due to this amendment to an existing administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is required and authorized by KRS 304.17B-023 and 304.17B-031.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The expenditures of OHDA is less than \$500 per month for this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to this administrative regulation will not create new revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment to this administrative regulation will not create new revenue.

(c) How much will it cost to administer this program for the first year? Approximately \$6,000 in existing staff time and resources.

(d) How much will it cost to administer this program for subsequent years? Approximately \$6,000 in existing staff time and resources.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): n/a

Expenditures (+/-): Less than \$500 per month.

Other Explanation: n/a